



# PROPERTY LAW SYLLABUS

PROFESSOR ERICKA KELSAW

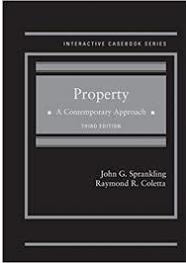
Fall 2021

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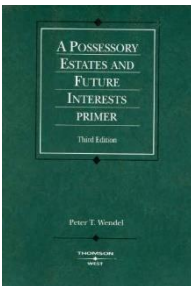
Property Tutor: Cierra Harris, [c.harris2086@student.tsu.edu](mailto:c.harris2086@student.tsu.edu)

Office hours: Tuesdays & Thursdays—TBA & By Appointment on Zoom

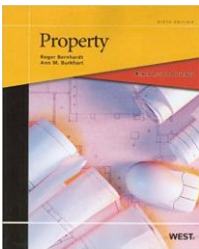
Required Literature:



John C. Sprankling & Raymond R. Coletta, *PROPERTY, A CONTEMPORARY APPROACH* (Fourth Ed. 2018), ISBN: 978-1-63460-650-9



Peter T. Wendell, *POSSESSORY ESTATES AND FUTURE INTEREST PRIMER* (Third Ed. 2007), ISBN: 978-0-31418-369-9



Bernhardt & Burkhardt, *BLACK LETTER OUTLINE ON PROPERTY* (6<sup>th</sup> Ed. 2012), ISBN: 978-1-63459-058-7

## Objective

Property is a first year-required course. In the common law legal system, property law governs the various forms of ownership in real property and in personal property. On the other hand, in the modern law legal system, torts and contracts-based doctrines also influence property law.

It is the objective of this course to help students navigate through these influences. A multidimensional series of cases, statutes, essays, short answer questions, quizzes, and exams will be administered to help formulate and gauge the students' understanding. By the end of the academic year, students will have the tools to successfully pass the comprehensive exams and will have acquired the knowledge and skills required to pass the bar exam as well.

### **Purpose**

The purpose of this syllabus is to provide students a roadmap of the course to help prepare for class. This syllabus is not intended to answer all the questions that will arise during the semester; therefore, it is students' responsibility to ask questions.

**NOTE: ALL INSTRUCTIONAL LESSONS AND EXAMS IN THIS SYLLABUS ARE SUBJECT TO CHANGE.**

### **Classroom Rules**

Unprofessional conduct towards others will not be tolerated and will result in dismissal from class and/or point deductions. Use of an incorrect exam number will result in a loss of five points on each respective exam or assignment. Proper attire is mandatory. You will have up to five absences this semester for our three-hour course. Tardies do count as absences.

**\*Always read the points for discussion following the cases, and work any problems. Brief the cases and be ready to identify the facts, the issue, the rule of law, and the court's reasoning in each case.**

### GRADES:

**Fall Midterm: 25%**

**Reading Quizzes: 10%**

**Fall Final: 60%**

**Participation & Professionalism: 5%**

- **FURTHER NOTE** – The grading break-down, just like *anything* in this syllabus, is subject to change by the Professor. In this event, notice will be provided to students.

## SECTION 1. THE CONCEPT OF PROPERTY (Ch. 1)

*Student Learning Outcomes.* Students will understand the basics of what it means to be a lawyer. Students will also understand what it means to think like a lawyer. Lastly, students will understand that law school requires a very particular level of effort and comprehension, which exceeds that required in a typical undergraduate-level—and even a typical graduate level—education.

<b><u>Ch. 1 The Concept of Property</u></b> <b>Why Recognize Property?</b>	<ul style="list-style-type: none"><li>➤ Read: pp. 1-15</li><li>➤ <i>Pierson v. Post</i></li></ul>
<b>Why Recognize Property?</b>	<ul style="list-style-type: none"><li>➤ Read: pp. 15-25</li><li>➤ <i>White v. Samsung Electronics America, Inc.</i></li><li>➤ <i>White v. Samsung Electronics America, Inc.</i></li></ul>
<b>What is Property?</b>	<ul style="list-style-type: none"><li>➤ Read: pp. 25-49</li><li>➤ <i>Johnson v. M'Intosh</i></li><li>➤ <i>Moore v. Regents of the University of California</i></li></ul>
<b>What is Property?</b>	<ul style="list-style-type: none"><li>➤ Read: pp. 49-68</li><li>➤ <i>Jacque v. Steenberg Homes, Inc.</i></li><li>➤ <i>State v. Shack</i></li><li>➤ <i>Britain's Right to Roam: Redefining the Landowner's Bundle of Sticks</i></li></ul>
<b>What is Property?</b>	<ul style="list-style-type: none"><li>➤ Read: pp. 68-94</li><li>➤ <i>Sundowner, Inc. v. King</i></li><li>➤ <i>Prah v. Maretti</i></li><li>➤ <i>Eyerman v. Mercantile Trust Co.</i></li><li>➤ <i>The Right to Destroy</i></li></ul>

## SECTION 2. ADVERSE POSSESSION (Ch. 2)

<p><b><u>Ch. 2 Owning Real Property</u></b></p> <p><b>Adverse Possession</b></p>	<ul style="list-style-type: none"><li>➤ Read: pp. 95-114</li><li>➤ <i>Gurwit v. Kannatzer</i></li><li>➤ <i>Van Valkenburgh v. Lutz</i></li></ul>
<p><b>Adverse Possession</b></p>	<ul style="list-style-type: none"><li>➤ Read: pp. 114-133 (full page of 133)</li><li>➤ <i>Fulkerson v. Van Buren</i></li><li>➤ <i>Tioga Coal Co., v. Supermarkets General Corp.</i></li><li>➤ <i>Howard v. Kunto</i></li></ul>

### **SECTION 3. PRIVATE INTERESTS IN LAND: ESTATES AND FUTURE INTERESTS (Ch. 5)**

*Student Learning Outcomes.* Students will define “estate” and recognize the difference between present estates and future estates. Subsequently, students will indicate the difference between freehold estates and non-freehold estates, and differentiate between an absolute estate and a qualified estate. Students will describe how a fee simple and a life estate are created. Students will examine the rights and obligations for a life tenant. Students will analyze what an estate for years is and how it is created and later terminated. After the students have established the components of present estates, students will be introduced to future interests in estates. Students will diagram what a reversionary interest is as well as what a non-reversionary future interest is. Students will contrast between a remainder and an executory interest. Students will differentiate between a contingent and a vested remainder based on unique fact patterns and practice problems. Furthermore, students will define the difference between a shifting and springing executory interest. After future interests have been defined, students will be given the rule against perpetuities to apply to the fact patterns. The rule against perpetuities will have students formulate a life in being as well as specifying a measuring life. By the end of this section, students should be able to correctly define and apply different estates, and additionally, be able to read fact patterns to determine future interests while applying the rule against perpetuities.

To facilitate these outcomes, students should be prepared to answer the following questions throughout in-class discussion:

- What is an estate?
- What is the difference between present estates and future estates?
- What is the difference between freehold estates and non-freehold estates?
- What is the difference between an absolute estate and a defeasible estate?
- How is a fee simple created?
- How is a fee tail created?
- How is a life estate created?
- What are the rights and obligations of the life tenant?
- What is an estate for years?
- How is an estate for years created and terminated?
- What is a tenancy at will?
- What is a tenancy at sufferance?
- What are the types of qualified estates?
- What is a reversionary future interest?
- What is a non-reversionary future interest?
- What is the difference between a remainder and an executory interest?
- What is the difference between a contingent and a vested remainder?
- What is the difference between a shifting and springing executory interest?
- What is the interest to which the rule against perpetuities applies?
- What is a life in being?
- What is a measuring life?

<p><b><u>Ch. 5 Estates and Future Interests</u></b></p> <p><b>Short History</b></p> <p><b>Modern Freehold Estates</b></p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 303-322</li> <li>➤ <i>Cole v. Steinlauf</i></li> <li>➤ <i>White v. Brown</i></li> <li>➤ Wendel Supplement pp. 1-5 (Chapter 1), pp. 6-16 (Chapter 2)</li> </ul>
<p><b>Modern Freehold Estates</b></p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 322-339</li> <li>➤ <i>Woodrick v. Wood</i></li> <li>➤ <i>Mahrenholz v. County Board of School Trustees of Lawrence County</i></li> <li>➤ Wendel Supplement pp. 17-41 (Chapter 3), pp. 42-57 (Chapter 4)</li> </ul>
<p><b>Modern Freehold Estates</b></p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 332-343</li> <li>➤ <i>Mahrenholz v. County Board of School Trustees of Lawrence County, continued if needed</i></li> <li>➤ <i>Metropolitan Park District v. Unknown Heirs of Rigney</i></li> </ul>
<p><b>Modern Future Interests</b></p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 344-356</li> <li>➤ Wendel Supplement, pp. 58-83 (Chapter 5), pp. 84-97 (Chapter 6), pp. 98-123 (Chapter 7).</li> </ul>
<p><b>Rules Furthering Marketability</b></p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 362-374</li> <li>➤ <i>Jee v. Audley</i></li> <li>➤ Wendel Supplement pp. 124 to 136 (Chapter 8), pp. 137-145 (Chapter 9); Wendel Supplement pp. 172-205 (Chapter 12)</li> </ul>

## SECTION 4. CONCURRENT OWNERSHIP (Ch. 6)

*Student Learning Outcomes.* Students will describe what an estate is and label the types of concurrent estates. Students will associate the requirements of each concurrent estate in order to compare and contrast the characteristics. Through practice and application, students will be able to list the characteristics of a joint tenancy: that the tenancy was created with the right of survivorship; and the interest was created in the same: 1) time, 2) title, 3) interest, and 4) possession. Furthermore, students will differentiate between the modern view and the traditional view of a joint tenancy. Additionally, students will summarize how to convey a co-ownership and how a joint tenancy is created and destroyed. Students will formulate what the effect of destruction is to a joint tenancy and how a tenancy in common is created. Following the creation of a tenancy in common, students will determine how a tenancy in common is destroyed. Finally, students will conclude about what the rights and liabilities are of cotenants. Through a series of pre-test and post-test practice exams, students will be able to judge and evaluate the three types of concurrent estates.

To facilitate these outcomes, students should be prepared to answer the following questions throughout in-class discussion:

- What is an estate?
- What are the types of concurrent estates?
- What are the characteristics of a joint tenancy?
- What are the four unities?
- How is co-ownership conveyed?
- How is a joint tenancy created and/or destroyed?
- What is the effect of the “destruction” of a joint tenancy?
- How is a tenancy in common created and/or destroyed?
- What are the rights and liabilities of cotenants?

<b><u>Ch. 6 Concurrent Ownership</u></b>  <b>Concurrent Ownership</b>	<ul style="list-style-type: none"><li>➤ Read: pp. 377-389</li><li>➤ <i>James v. Taylor</i></li><li>➤ <i>Tenhet v. Boswell</i></li></ul>
<b>Concurrent Ownership</b>	<ul style="list-style-type: none"><li>➤ Read: pp. 389-401</li><li>➤ <i>Ark Land Co. v. Harper</i></li><li>➤ <i>Esteves v. Esteves</i></li></ul>

**SECTION 5. NUISANCE (Ch. 10)**

<p><b><u>Ch. 10 Private Land Use Planning</u></b></p> <p><b>Nuisance</b></p>	<ul style="list-style-type: none"><li>➤ Read: pp. 787-802</li><li>➤ <i>Boomer v. Atlantic Cement Co., Inc.</i></li><li>➤ <i>Thomsen v. Greve</i></li></ul>
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